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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.2640 OF 2006

Union of India through
The General Manager, Central
Railway, Mumbai, CST. Appellant

versus

Vijay Pandurang Patil,
A & P Kale, Tal.Karad,
Dist.Satara. Respondent

Mr.T.J.Pandian for appellant.
Mr.T.N.Mendon for respondent.

CORAM : A.S.OKA, J.

DATE : 26th February 2007

PC :

1. The submissions of the learned advocates appearing for the parties have been heard on the last day. The challenge in this appeal is to the judgement and order dated 13th July 2006 passed by the learned Members of the Railway Claims Tribunal, Mumbai.

2. The case of the respondent is that he accidentally fell down from a train near Dadar Station on 6th July 2003 while he was travelling

from Satara to Dadar. It is the case of the respondent that he was holding a valid railway ticket which was lost as a result of the accident. The defence of the appellant is that it was the case of a self inflicted injury. A contention is raised by the learned counsel for the appellant that the respondent is a blind person who was negligently travelling alone by Railway Train without accompanied by an escort.

3. The Railway Claims Tribunal held that the respondent has proved his case and he was a bona fide passenger who suffered serious injuries in an untoward incident within the meaning of Section 123(c)(2) of the Railways Act, 1989 (hereinafter referred to as "the said Act of 1989"). The result of the injury sustained by the respondent is amputation of both his legs. There appears to be no dispute between the parties as regards nature of injuries sustained by the respondent. The Tribunal found that the respondent suffered following injuries :-

(a) Rt. above knee amputation;

(b) Lt.below knee amputation;

(c) CLW 4x2 Cm. bone deep in right parietal region with underlying skull

fracture and other injuries as per medical papers annexed."

4. The learned counsel appearing for the appellant submitted that the respondent is a blind person and he did not avail the facility provided by the Railways by taking a companion with him. He submitted that as the respondent was not accompanied by a companion, he tried to get down from a running train and as a result the mishap has taken place. He submitted that it was a self inflicted injury not covered by section 123(c)(2) of the said Act of 1989.

5. I have heard the submissions of the learned counsel for the respondent. The respondent is admittedly a blind person. The respondent was carrying on business of selling toys at Satara. He was travelling from Satara to Mumbai for purchasing toys at Mumbai. The submission made by the learned advocate for the appellant as regards failure of the respondent to take companion with him is an unfortunate submission. There is no provision under which the Railways provide a companion to a blind passenger. The scheme is of granting some concession to the companion travelling with a blind person in the

ticket fare. The respondent who was carrying on a small business of selling the toys at Satara, was not expected to carry a companion with him. The Tribunal has accepted the evidence of the respondent. The respondent deposed that during the course of the accident he lost the ticket which he was carrying. It was sought to be contended that some cash was recovered from the pocket of the trouser. The said cash was not kept in the wallet. Merely because some cash is found in the pocket of the trouser of the respondent, it is not possible to disbelieve the case made out by the respondent that his ticket was lost.

6. The Tribunal is not bound by the strict rules of evidence. After duly considering the stand taken by the appellant, the Tribunal has accepted the case of the respondent who is a blind person and who has suffered amputation of both the legs. The right leg has been amputed above knee and the left leg is amputed below knee. Apart from that he suffered CLW 4x2 cm. bone deep in right parietal region with underlying skull fracture and other injuries as per medical papers produced. His evidence that he fell down accidently from the train has been accepted. As

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per the provisions of The Railways Accident and Untoward Incidents (compensation) Rules, 1990 the amputation of both the legs falls at sr.no.3 of Part-II of the Schedule thereto and therefore the compensation of Rs.4.00 lakh has been awarded. There is no reason to interfere with the said order.

7. This is a fit case where the appellant should be directed to pay the costs to the respondent. The Amount is quantified at Rs.7,500/-.

8. The appeal is dismissed. The appellant will pay Rs.7,500/- by way of costs to the respondent within a period of four weeks from today.

9. In view of dismissal of the First Appeal, Civil Application No.4555 of 2006 does not survive and it stands rejected accordingly.

(A.S.OKA, J.)